IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

W.A. No.2232 of 2001

1. The Collector of Madras,
Collector's Office,
Madras 600 005.

2. The Tahsildar,
Mylapore, Triplicane Taluk. .. Appellants

-vs-

1.G.Sargunavathi

2.The Chief Security Commissioner,
Office of the Chief Security Commissioner,
Railway Protection Force,
Southern Railway,
Moors Market Complex,
Madras - 3. .. Respondents

Writ Appeal filed under Clause 15 of Letters Patent against th order made in W.P.No.6791 of 1992, dated 05.10.1999.

WP 6791/92: Writ Petition is filed under Article 226 of Constitutio of India praying for issuance of Certiorari calling for the record of the 1st Respondent relating to this case and quash the order of th 1st Respondent Rc.C3/23383/91 dated 9.4.92.

For Appellants : Mr.P.Subramanian,G.A.
For Respondents : Mr.N.G.R.Prasad for
M/s Row and Reddy (for R1)
Mr.V.G.Suresh Kumar (for R2)

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of th learned single Judge dated 05.10.1999 made in W.P.No.6791 of 1992, i

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and by which the learned Judge set aside the order of the Collecto dated 09.04.1992 on the ground that the Tahsildar has no jurisdictio from the year 1989 to conduct enquiry in the caste matters.

2. Heard the learned Government Advocate for the appellants a well as the learned counsel for the respondents.

3. It is not in dispute that the Tahsildar has not passed th ultimate order. Pursuant to the direction of the District Collector the Tahsildar, Mylapore, Triplicane Taluk conducted an enquiry an submitted a report. Based on his report and by further enquiry, th District Collector passed an order dated 09.04.1992 cancelling th Community Certificate dated 26.06.1989 of the petitioner.

4. Though the reasoning of the learned Judge in quashing the orde of the Collector dated 09.04.1992 is not acceptable, in view of th fact that the appellate Court can also go into the merits of the orde passed by the Collector, Madras dated 09.04.1992, we verified the sai order and also heard the arguments of both sides at length. Apar from the order of the Collector, the very same Collector has filed counter affidavit explaining the stand taken by her. The particular available in the counter affidavit shows that the writ petitioner ha been asked to appear before the District Collector and in fact, sh appeared for enquiry on 28.02.1991 and produced certain documents The first document relates to Service Book extract o Mr.T.V.Subramanian, who is none else than her father's (A.Gopal's mother's, sister's son, in whose service records the community ha been specifically mentioned as 'Kattunaicken' which was noted on th basis of the certificate issued by the Tahsildar, Vellore in 1979 Curiously, the District Collector, after finding that the relatio through mothers cannot be acceptable in the absence of any evidence rejected her claim and therefore, the conclusion in so far as th service book extract of Thiru T.V.Subramanian cannot be accepted Courts have taken a view that it is not possible for the perso concerned to produce many documents in support of his/her claim. I the enquiry, she has explained how she is related to T.V.Subramanian Though the said Subramanian was no more at the time of enquiry, we ar satisfied that the District Collector ought to have accepted he explanation and relied on the service book register of the sai T.V.Subramanian. It is also brought to our notice that both th parents and the applicant belong to the same community. This relevan aspect was not taken note of by the District Collector as well as th learned Judge. The other document produced by the writ petitioner is transfer certificate issued by the Headmaster, St.Raphels Girls Highe Secondary School, Madras - 1. No doubt, in the transfer certificate there is no entry regarding the community of the writ petitioner namely G.Sargunavathi.

5. Mr.N.G.R.Prasad, learned counsel appearing for the firs

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respondent - writ petitioner submitted that inasmuch as the parent
are illiterates, merely because there is a blank against the colum
"Community", there is no reason to disbelieve her statement and othe
documentary evidence.

6. Considering the materials placed, though the learned singl
Judge has not considered those aspects, in view of our discussion, w
are satisfied that the order of the Collector dated 09.04.1992 has t
be set aside on other grounds as mentioned above. In thos
circumstances, there is no reason to interfere with the order of th
learned single Judge. Consequently, the appeal fails and the same i
dismissed. No costs.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Collector of Madras,
   Collector's Office,
   Madras 600 005.

2. The Tahsildar,
   Mylapore, Triplicane Taluk.

1 CC TO MR.V.G.SURESH KUMAR, ADVOCATE SR 55071

1 CC TO MR. ROW & REDDY, ADVOCATES R 54628

1 CC TO G.P., ADVOCATE SR 54440

W.A.No.2232 of 200

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